

## REMARKS

### **Status of the Claims**

Claims 1-9 are currently pending in the application. Claims 1-4 stand rejected. Claim 1 has been amended as set forth herein without prejudice or disclaimer. New claims 5-9 have been added herein. No new matter has been added by way of the present amendments. Specifically, the amendment to claim 1 is supported by the specification, at least at paragraphs [0016] and [0020]. New claim 5 is supported throughout the specification, for instance, at page 9, paragraph [0020] and at least by original claim 1. New claim 6 is supported at page 4, paragraph [0010] of the specification. New claim 7 is supported by the specification at least at page 5, paragraph [0012]. New claim 8 is supported at least at page 5, paragraph [0013] of the specification. New claim 9 is supported throughout the specification, for instance, at page 7, paragraph [0016]. Reconsideration is respectfully requested.

### **Rejections Under 35 U.S.C. § 102(b)**

#### Dickmanns et al., U.S. Patent No. 3,993,437

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dickmanns et al., U.S. Patent No. 3,993,437 (hereinafter referred to as "Dickmanns et al."). (See, Office Action of April 2, 2007, at page 2, hereinafter, "Office Action"). Applicants traverse the rejection as set forth herein.

The Examiner states that Dickmanns et al. disclose at column 10, Example 3, the dying of perlon yard (having a polyamide bond) with sodium sulfide and hydroxybenzene derivatives at a temperature of up to 110 °C.

However, the Examiner incorrectly interprets the Dickmanns et al. disclosure. That is, although Dickmanns et al. may disclose the use of a sodium sulfide salt, Dickmanns et al. requires the presence of "dyestuff" to achieve the improved method of dyeing. That is, in addition to the metal salt and any aromatic compound, the Dickmanns et al. method requires many more components than the presently claimed method.

Although Applicants do not agree that Dickmanns et al. anticipates the presently claimed invention, to expedite prosecution, claim 1 has been amended herein without prejudice or disclaimer to recite, in part, "A coloring method of a tangible matter having a polyamide bond, comprising: treating the tangible matter having a polyamide bond with an aqueous solution consisting essentially of a solution of an aromatic derivative having one or more hydroxyl groups, a dyeing assistant agent and a metal salt . . ."

Thus, Dickmanns et al. cannot anticipate claim 1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See, *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)).

Dependent claim 4 is not anticipated as, *inter alia*, depending from a non-anticipated base claim, claim 1.

Reconsideration and withdrawal of the anticipation rejection of claims 1 and 4 are respectfully requested.

Russ et al., U.S. Patent No. 5,810,890

Claims 1 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Russ et al., U.S. Patent No. 5,810,890 (hereinafter referred to as "Russ et al."). (See, Office Action, at page 2). Applicants traverse the rejection as set forth herein.

The Examiner states that Russ et al. disclose dyeing nylon using trisodium phosphate and hydroxybenzene derivatives at temperatures up to 98 °C.

However, Russ et al. is directed to different types of dyes. In contrast, the presently claimed invention is devoid of any dyes. (See, specification, at page 9, paragraph [0020]). Thus, Russ et al. cannot anticipate the presently claimed invention. (See, *Verdegall Bros.*, 814 F.2d 631, 2 U.S.P.Q.2d 1053).

Dependent claim 4 is not anticipated as, *inter alia*, depending from a non-anticipated base claim, claim 1.

Reconsideration and withdrawal of the anticipation rejection of claims 1 and 4 are respectfully requested.

**Rejections Under 35 U.S.C. § 103(a)**

Miyamatsu et al., U.S. Patent No. 5,221,289

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyamatsu et al., U.S. Patent No. 5,221,289 (hereinafter, "Miyamatsu et al."). (See, Office Action, at page 3). Applicants traverse the rejection as hereinafter set forth.

The Examiner states that Miyamatsu et al. disclose or suggest treating wool with tannic acid at between 50-95 °C with an iron salt mordants and dyes. The Examiner admits that

Miyamatsu et al. do not disclose all these limitations in a single example. However, the Examiner states it would have been obvious to modify the methods of Miyamatsu et al. to arrive at the presently claimed invention.

However, the method of Miyamatsu et al. requires the use of a dye obtained from reishi, thereby imparting an antimicrobial and antiallergic activity to the dyed fabric. (*See*, Miyamatsu et al., at column 3, lines 17-21 and columns 5-6). As already discussed, above, claim 1 of the present invention does not encompass other dyes. Thus, the presently claimed invention cannot be obvious in light of the disclosure of Miyamatsu et al. for this reason and because Miyamatsu et al. is directed to a completely different, unrelated invention – a method of manufacturing and dyeing an antimicrobial and antiallergic fabric.

Reconsideration and withdrawal of the obviousness rejection of claims 1-4 are respectfully requested.

Nishikawa et al., U.S. Patent No. 4,620,852

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishikawa et al., U.S. Patent No. 4,620,852 (hereinafter, “Nishikawa et al.”). (*See*, Office Action, at page 4). Applicants traverse the rejection as hereinafter set forth.

The Examiner states that Nishikawa et al. disclose or suggest treating polyamide fibers with tannic acid and metal salts such as iron salts and treating the fabrics with dyes.

However, the invention of Nishikawa et al. is directed to a new type of synthetic fabric, not a dyeing process. Nishikawa et al. do disclose dyeing the new fabric, using “dyes and/or pigments.” (*See*, Nishikawa et al., at column 6, lines 10-15, lines 60-65, and the use of “metal

dye complexes" at column 7, line 12). As already discussed, above, claim 1 of the present invention does not encompass other dyes or new types of leather-like fabric, etc. Thus, the presently claimed invention is not obvious in light of Nishikawa et al., which is directed to developing new "dyeable artificial leathers." (*Id.* at column 2, lines 13-15).

Reconsideration and withdrawal of the obviousness rejection of claims 1 and 4 are respectfully requested.

Moeller et al., WO 98/47472

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moeller et al., WO 98/47472 (hereinafter, "Moeller et al."). (*See*, Office Action, at page 5). Applicants traverse the rejection as to the remaining claims as hereinafter set forth.

The Examiner states that Moeller et al. disclose or suggest dyeing wool and polyamide fibers with dihydrobenzoic acid and trihydroxybenzoic acid in combination with metal salts such as iron salts at temperatures of less than 45 °C.

However, the presently claimed invention is markedly different from that disclosed in Moeller et al. because Moeller et al. require addition of an isatin derivative in addition to a compound containing a primary or secondary amino group or hydroxygroup. (*See*, Moeller et al., at column 3, lines 55-65, and abstract). The presently claimed invention requires no isatin compound and is possible using only the aromatic compound, a dyeing assistant agent and a metal salt, as recited in claim 1. Thus, the disclosed invention of Moeller et al. is nothing like the presently claimed invention.

Therefore, at least as amended, Moeller et al. cannot make obvious the presently claimed invention because the invention of Moeller et al. requires the presence of an isatin compound, which the presently claimed invention does not require.

Reconsideration and withdrawal of the obviousness rejection of claims 1 and 4 are respectfully requested.

Moeller II et al., WO 01/34106

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moeller et al., WO 01/34106 (hereinafter, "Moeller II et al."). (*See*, Office Action, at page 6). Applicants traverse the rejection as to the remaining claims as hereinafter set forth.

The Examiner states that Moeller II et al. disclose or suggest the same limitations as Moeller et al., above.

However, Moeller et al. II require the presence of at least one aromatic aldehyde or ketone of formula I and at least one CH-active compound of formula II having the structures disclosed at column 2, line 40 to column 3, line 53. Thus, as explained above, with respect to Moeller et al., the cited reference requires the presence of multiple compounds and thus is distinguishable from the presently claimed invention which requires only the presence of an aromatic compound, a metal salt and one or more dyeing assistant agents. The method of Moeller II et al. requires more components not encompassed by the presently amended claims.

Therefore, reconsideration and withdrawal of the obviousness rejection of claims 1 and 4 are respectfully requested.

**CONCLUSION**

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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